



Victoria Davis Lockard  
Tel 678.553.2100  
Fax 678.553.2212  
lockardv@gtlaw.com

November 14, 2023

**VIA ECF**

Special Master the Honorable Thomas Vanaskie  
Stevens & Lee  
1500 Market Street, East Tower  
18th Floor  
Philadelphia, PA 19103

**Re:     In re Valsartan, Losartan, and Irbesartan Products Liability Litigation**  
**Case No. 1:19-md-02875-RBK-JS**

Dear Special Master Vanaskie:

This letter is to provide Defendants' position with respect to the topics on the agenda for the Teleconference with Your Honor on November 16, 2023. The parties do not expect the need to discuss any confidential materials as part of these agenda items.

**1. Update on Losartan/Irbesartan PFS Drafts**

Defendants have prepared draft Plaintiff Fact Sheets ("PFSs") for (1) Losartan and Irbesartan Consumer Economic Loss Plaintiffs; (2) Losartan Medical Monitoring Plaintiffs; and (3) Losartan and Irbesartan Third-Party Payor Plaintiffs. Those draft PFSs were provided to Plaintiffs' counsel for review and comment. The parties held an initial meet and confer on the Third-Party Payor PFS, and Plaintiffs' counsel subsequently provided Defendants with their proposed revisions. Defendants are collectively reviewing those revisions and are working to provide their response this week. Defendants anticipate that any additional meet and confers necessary on the Third-Party Payor PFS can be completed prior to the December 6th status



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conference, and any disputes remaining regarding the content of the Third-Party Payor PFS will be ripe to be addressed with the Court at that status conference.

Today, Plaintiffs' counsel also provided Defendants with their proposed revisions to the Losartan and Irbesartan Consumer Economic Loss PFS and the Losartan Medical Monitoring PFS. Defendants are in the process of reviewing and evaluating those proposed revisions.

Finally, and relatedly, in the interest of narrowing the claims at issue in the Losartan and Irbesartan Master Complaints (which were filed prior to the Court's rulings on Defendants' motions to dismiss regarding the claims in the Valsartan Master Complaints) and to conserve the Parties' and the Court's resources by avoiding briefing motions to dismiss on the Master Losartan and Irbesartan Complaints that would be substantially similar to the prior briefing on the motions to dismiss filed by Defendants as to Plaintiffs' Master Valsartan Complaints, the Parties are negotiating a potential Proposed Order on Motions to Dismiss that would streamline the dismissal of certain claims from the Master Losartan and Irbesartan Complaints while preserving all Parties' appellate rights. Presuming the Parties reach an agreement on the language of such a proposed order, Defendants anticipate that the draft will be ready to present to the Court for entry at or before the December 6th status conference.

## **2. Update on the Status of Manufacturer Defendants' Losartan/Irbesartan Document Production**

As set forth below, each of the responding losartan and irbesartan manufacturer defendants have either already begun making rolling document productions or will begin to do so shortly, consistent with their discovery obligations as set forth in the proposed agreed order on losartan and irbesartan discovery negotiated by the parties at the August 3, 2023 Case Management



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Conference, announced to the Court at that CMC, and submitted to Your Honor for entry on August 17, 2023. The manufacturer defendants have not received any communications from Plaintiffs addressing perceived deficiencies in these rolling productions or been asked to meet and confer over any potential modifications to the proposed order and schedule. However, in Plaintiffs' position statement submitted on October 30, 2023, in advance of the November 1<sup>st</sup> Case Management Conference, Plaintiffs included a request that the Court impose seven additional rolling production deadlines on the manufacturer defendants over the next four months. (*See* ECF No. 2524 at 1-2). Out of an abundance of caution, in the event Plaintiffs intend to reiterate this request, the manufacturer defendants will briefly address why this request is (1) not consistent – as Plaintiffs incorrectly suggest – with any prior valsartan discovery orders; (2) inconsistent with Your Honor's ruling on specific rolling production deadlines for losartan core discovery; and (3) an attempt to renege on one of the key points Plaintiffs agreed to in August when the parties resolved the proposed losartan and irbesartan discovery schedule.

First, despite Plaintiffs' claim that the proposed deadlines would be “[j]ust as was done in the valsartan portion of discovery,” (*id.* at 3), at no stage of this litigation has this Court ever ordered bi-monthly rolling production deadlines. Monthly – not bimonthly – rolling productions were enforced during the latter portion of 2020 after significant delays and corresponding discovery deadline extensions caused by the COVID-19 pandemic. Similar extenuating circumstances do not exist at this time, and as the manufacturer-specific updates below demonstrate, imposing a host of additional deadlines is unnecessary to ensure the manufacturer defendants comply with their discovery obligations.



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Second, Plaintiffs requested that the Court impose similar specific rolling production deadlines in 2022 in connection with losartan and irbesartan core discovery. Your Honor heard argument on this request and rejected it. (July 13, 2022 Hrg. Tr., 31:18-33:13). As noted during that argument, the type of repetitive production Plaintiffs seek will inevitably be counterproductive to the efficient and timely production of documents.

Finally, the parties reached agreement on the specific losartan and irbesartan document production schedule shortly before the August 3<sup>rd</sup> CMC, and announced agreement on the terms of a proposed order which was jointly submitted to the Court on August 17, 2023. (*See* August 3, 2023 Hrg. Tr., 8:12-9:17; S. Harkins 8/17/2023 Email, attached as **Exhibit A**). The proposed order specifically does not include rolling production deadlines. Plaintiffs' attempt to add *seven* additional production deadlines at this stage of ongoing discovery, upending the schedule to which they agreed in the absence of any documented or even alleged production deficiencies, should be rejected.

**Aurobindo:**

Aurobindo has negotiated an extension of time to begin its rolling production of documents following irbesartan core discovery.

**Hetero:**

Hetero has confirmed the proposed search terms and relevant custodians with Plaintiffs. Hetero has agreed supplement the list of custodians and source additional custodians at Plaintiffs' specific request. Hetero is in process of conducting document review and will make its first production within the next week, and will continue to make document production on a rolling basis.



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**Sciegen:**

Sciegen made its initial production on Friday, November 10, 2023, and will continue to make rolling productions of documents in line with its discovery obligations.

**Teva:**

Teva has made one rolling document production and will be serving its second rolling production this week.

**Torrent:**

Torrent made its first rolling production of documents on October 31, 2023, and will continue to make rolling productions of materials in line with its discovery obligations.

**Vivimed:**

Vivimed has made one production of documents to date, anticipates making its second production this week, and will continue to make rolling productions of documents in line with its discovery obligations.

**ZHP:**

The ZHP defendants made their first rolling production to plaintiffs in July 2023 and have made additional rolling productions in August, September, and October. The ZHP defendants anticipate making their next rolling production this week.

**3. Agreed List of Losartan/Irbesartan NDCs**

Plaintiffs and responding Manufacturer Defendants stipulate that the list attached as **Exhibit B** reflects to the best of the information currently available to Plaintiffs and responding Manufacturer Defendants the National Drug Codes (NDC) associated with the Losartan and Irbesartan Manufacturer Defendants identified in Plaintiffs' Master Complaints. *See Plaintiff's*



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Requests for Production of Documents to All API and Finished-Dose Manufacturing Defendants  
Regarding Losartan and Irbesartan Economic Loss Claims (ECF No. 2401).

Respectfully submitted,

/s/ Victoria Davis Lockard

Victoria Davis Lockard

cc: Adam Slater, Esq. (*via email, for distribution to Plaintiffs' Counsel*)  
Jessica D. Miller, Esq. (*via email, for distribution to Defendants' Counsel*)  
Lori G. Cohen, Esq. (*via email*)  
Clem C. Trischler, Esq. (*via email*)  
Sarah E. Johnston, Esq. (*via email*)  
Jeffrey D. Geoppinger, Esq. (*via email*)